

105TH CONGRESS
2D SESSION

S. 2349

To authorize appropriations for the hazardous materials transportation program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 23, 1998

Mr. McCAIN introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To authorize appropriations for the hazardous materials transportation program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Hazardous Materials
5 Transportation Reauthorization Act of 1998”.

6 **SEC. 2. AMENDMENT OF TITLE 49; TABLE OF SECTIONS.**

7 (a) AMENDMENT OF TITLE 49, UNITED STATES
8 CODE.—Except as otherwise expressly provided, whenever
9 in this title an amendment or repeal is expressed in terms
10 of an amendment to, or a repeal of, a section or other

1 provision, the reference shall be considered to be made to
 2 a section or other provision of title 49, United States
 3 Code.

4 (b) TABLE OF SECTIONS.—The table of sections for
 5 this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of sections.
- Sec. 3. Findings and purposes; definitions.
- Sec. 4. Handling criteria repeal.
- Sec. 5. Hazmat employee training requirements.
- Sec. 6. Registration.
- Sec. 7. Shipping paper retention.
- Sec. 8. Public sector training curriculum.
- Sec. 9. Planning and training grants.
- Sec. 10. Special permits, pilot programs, and exclusions.
- Sec. 11. Administration.
- Sec. 12. Cooperative agreements.
- Sec. 13. Enforcement.
- Sec. 14. Penalties.
- Sec. 15. Preemption.
- Sec. 16. Judicial review.
- Sec. 17. Hazardous materials transportation reauthorization.
- Sec. 18. Authorization of appropriations.

6 **SEC. 3. FINDINGS AND PURPOSES; DEFINITIONS.**

7 (a) FINDINGS AND PURPOSES.—Section 5101 is
 8 amended to read as follows:

9 **“§ 5101. Findings and purposes**

10 “(a) FINDINGS.—Congress finds with respect to haz-
 11 ardous materials transportation that—

12 “(1) approximately 4,000,000,000 tons of regu-
 13 lated hazardous materials are transported each year
 14 and that approximately 1,000,000 movements of
 15 hazardous materials occur each day, according to
 16 Department of Transportation estimates;

1 “(2) accidents involving the release of hazard-
2 ous materials are a serious threat to public health
3 and safety;

4 “(3) many States and localities have enacted
5 laws and regulations that vary from Federal laws
6 and regulations pertaining to the transportation of
7 hazardous materials, thereby creating the potential
8 for unreasonable hazards in other jurisdictions and
9 confounding shippers and carriers that attempt to
10 comply with multiple and conflicting registration,
11 permitting, routings, notification, loading, unloading,
12 incidental storage, and other regulatory require-
13 ments;

14 “(4) because of the potential risks to life, prop-
15 erty and the environment posed by unintentional re-
16 leases of hazardous materials, consistency in laws
17 and regulations governing the transportation of haz-
18 ardous materials, including loading, unloading, and
19 incidental storage, is necessary and desirable;

20 “(5) in order to achieve greater uniformity and
21 to promote the public health, welfare, and safety at
22 all levels, Federal standards for regulating the trans-
23 portation of hazardous materials in intrastate, inter-
24 state, and foreign commerce are necessary and desir-
25 able;

1 “(6) in order to provide reasonable, adequate,
2 and cost-effective protection from the risks posed by
3 the transportation of hazardous materials, a network
4 of adequately trained State and local emergency re-
5 sponse personnel is required;

6 “(7) the movement of hazardous materials in
7 commerce is necessary and desirable to maintain
8 economic vitality and meet consumer demands, and
9 shall be conducted in a safe and efficient manner;

10 “(8) primary authority for the regulation of
11 such transportation should be consolidated in the
12 Department of Transportation to ensure the safe
13 and efficient movement of hazardous materials in
14 commerce; and

15 “(9) emergency response personnel have a con-
16 tinuing need for training on responses to releases of
17 hazardous materials in transportation and small
18 businesses have a continuing need for training on
19 compliance with hazardous materials regulations.

20 “(b) PURPOSES.—The purposes of this chapter are—

21 “(1) to ensure the safe and efficient transpor-
22 tation of hazardous materials in intrastate, inter-
23 state, and foreign commerce, including the loading,
24 unloading, and incidental storage of hazardous ma-
25 terials;

1 “(2) to provide the Secretary with preemption
2 authority to achieve uniform regulation of hazardous
3 materials transportation, to eliminate inconsistent
4 rules that apply differently from Federal rules, to
5 ensure efficient movement of hazardous materials in
6 commerce, and to promote the national health, wel-
7 fare, and safety; and

8 “(3) to provide adequate training for public sec-
9 tor emergency response teams to ensure safe re-
10 sponses to hazardous materials transportation acci-
11 dents and incidents.”.

12 (b) DEFINITIONS.—Section 5102 is amended by—

13 (1) by striking paragraph (1) and inserting the
14 following:

15 “(1) ‘commerce’ means trade or transportation
16 in the jurisdiction of the United States—

17 “(A) between a place in a State and a
18 place outside of the State;

19 “(B) that affects trade or transportation
20 between a place in a State and a place outside
21 of the State; or

22 “(C) on a United States-registered air-
23 craft.”;

24 (2) by striking paragraphs (3) and (4) and in-
25 serting the following:

1 “(3) ‘hazmat employee’ means an individual
2 who—

3 “(A) is—

4 “(i) employed by a hazmat employer,

5 “(ii) self-employed, or

6 “(iii) an owner-operator of a motor
7 vehicle; and

8 “(B) during the course of employment—

9 “(i) loads, unloads, or handles hazard-
10 ous materials;

11 “(ii) manufactures, reconditions, or
12 tests containers, drums, or other packag-
13 ings represented as qualified for use in
14 transporting hazardous materials;

15 “(iii) performs any function pertain-
16 ing to the offering of hazardous materials
17 for transportation;

18 “(iv) is responsible for the safety of
19 transporting hazardous materials; or

20 “(v) operates a vehicle used to trans-
21 port hazardous materials.

22 “(4) ‘hazmat employer’ means a person who—

23 “(A) either—

24 “(i) is self-employed,

1 “(ii) is an owner-operator of a motor
2 vehicle, or

3 “(iii) has at least 1 employee; and

4 “(B) performs a function, or uses at least
5 1 employee, in connection with—

6 “(i) transporting hazardous materials
7 in commerce;

8 “(ii) causing hazardous materials to
9 be transported in commerce, or

10 “(iii) manufacturing, reconditioning,
11 or testing containers, drums, or other
12 packagings represented as qualified for use
13 in transporting hazardous materials.”;

14 (3) by striking “title.” in paragraph (7) and in-
15 serting “title, except that a freight forwarder is in-
16 cluded only if performing a function related to high-
17 way transportation.”;

18 (4) by redesignating paragraphs (9) through
19 (13) as paragraphs (12) through (16), respectively;

20 (5) by inserting after paragraph (8) the follow-
21 ing:

22 “(9) ‘out-of-service order’ means a mandate
23 that an aircraft, vessel, motor vehicle, train, other
24 vehicle, or a part of any of these, not be moved until
25 specified conditions have been met.

1 “(10) ‘package’ or ‘outside package’ means a
2 packaging plus its contents.

3 “(11) ‘packaging’ means a receptacle and any
4 other components or materials necessary for the re-
5 ceptacle to perform its containment function in con-
6 formance with the minimum packaging requirements
7 established by the Secretary of Transportation.”;
8 and

9 (6) by striking “ or transporting hazardous ma-
10 terials to further a commercial enterprise;” in para-
11 graph (12)(A), as redesignated by paragraph (4) of
12 this subsection, and inserting “, and transporting
13 hazardous materials to further a commercial enter-
14 prise, or manufacturing, reconditioning, or testing
15 containers, drums, or other packagings represented
16 as qualified for use in transporting hazardous mate-
17 rials;”.

18 (c) CLERICAL AMENDMENT.—The chapter analysis
19 of chapter 51 is amended by striking the item relating to
20 section 5101 and inserting the following:

“5101. Findings and purposes.”.

21 **SEC. 4. HANDLING CRITERIA REPEAL.**

22 Section 5106 is repealed and the chapter analysis of
23 chapter 51 is amended by striking the item relating to
24 that section.

1 **SEC. 5. HAZMAT EMPLOYEE TRAINING REQUIREMENTS.**

2 Section 5107(f)(2) is amended by striking “and sec-
3 tion 5106, and subsections (a) through (g)(1) and (h) of
4 section 5108(a), and 5109 of this title”.

5 **SEC. 6. REGISTRATION.**

6 Section 5108 is amended by—

7 (1) by striking subsection (b)(1)(C) and insert-
8 ing the following:

9 “(C) each State in which the person car-
10 ries out any of the activities.”;

11 (2) by striking subsection (c) and inserting the
12 following:

13 “(c) FILING SCHEDULE.—Each person required to
14 file a registration statement under subsection (a) of this
15 section shall file that statement annually in accordance
16 with regulations issued by the Secretary.”;

17 (3) by striking “552(f)” in subsection (f) and
18 inserting “552(b)”;

19 (4) by striking “may” in subsection (g)(1) and
20 inserting “shall”; and

21 (5) by inserting “or an Indian tribe,” in sub-
22 section (i)(2)(B) after “State,”.

23 **SEC. 7. SHIPPING PAPER RETENTION.**

24 Section 5110(e) is amended by striking the first sen-
25 tence and inserting “After expiration of the requirement
26 in subsection (c), the person who provided the shipping

1 paper and the carrier required to maintain it under sub-
2 section (a) shall retain the paper or an electronic image
3 thereof, for a period of 1 year after the shipping paper
4 was provided to the carrier, to be accessible through their
5 respective principal places of business.”.

6 **SEC. 8. PUBLIC SECTOR TRAINING CURRICULUM.**

7 Section 5115 is amended—

8 (1) in subsection (a), by striking “DEVELOP-
9 MENT AND UPDATING.—Not later than November
10 16, 1992, in” and inserting “UPDATING.—In”;

11 (2) in the first sentence of subsection (a), by
12 striking “develop and”;

13 (3) in subsection (a), by striking the second
14 sentence;

15 (4) in the first sentence of subsection (b), by
16 striking “developed”;

17 (5) in subparagraphs (A) and (B) of subsection
18 (b)(1), by inserting “or involving an alternative fuel
19 vehicle” after “material”; and

20 (6) by striking subsection (d) and inserting the
21 following:

22 “(d) DISTRIBUTION AND PUBLICATION.—With the
23 national response team, the Secretary of Transportation
24 may publish a list of programs that use a course developed
25 under this section for training public sector employees to

1 respond to an accident or incident involving the transpor-
2 tation of hazardous materials.”.

3 **SEC. 9. PLANNING AND TRAINING GRANTS.**

4 Section 5116 is amended by—

5 (1) by striking “of” in the second sentence of
6 subsection (e) and inserting “received by”;

7 (2) by striking subsection (f) and inserting the
8 following:

9 “(f) **MONITORING AND TECHNICAL ASSISTANCE.**—

10 The Secretary of Transportation shall monitor public sec-
11 tor emergency response planning and training for an acci-
12 dent or incident involving hazardous materials. Consider-
13 ing the results of the monitoring, the Secretary shall pro-
14 vide technical assistance to a State, political subdivision
15 of a State, or Indian tribe for carrying out emergency re-
16 sponse training and planning for an accident or incident
17 involving hazardous materials and shall coordinate the as-
18 sistance using the existing coordinating mechanisms of the
19 national response team for oil and hazardous substances
20 and, for radioactive material, the Federal Radiological
21 Preparedness Coordinating Committee.”; and

22 (3) by adding at the end thereof the following:

23 “(l) **SMALL BUSINESSES.**—The Secretary may au-
24 thorize a State or Indian tribe receiving a grant under
25 this section to use up to 25 percent of the amount of the

1 grant to assist small businesses in complying with regula-
 2 tions issued under this chapter.”.

3 **SEC. 10. SPECIAL PERMITS, PILOT PROGRAMS, AND EXCLU-**
 4 **SIONS.**

5 (a) Section 5117 is amended—

6 (1) by striking the section heading and insert-
 7 ing the following:

8 “§ **Sec. 5117. Special permits, pilot programs, exemp-**
 9 **tions, and exclusions” ;**

10 (2) by striking “2 years” in subsection (a)(2)
 11 and inserting “4 years”;

12 (3) by redesignating subsection (e) as sub-
 13 section (f); and

14 (4) by inserting after subsection (d) the follow-
 15 ing:

16 “(e) **AUTHORITY TO CARRY OUT PILOT PRO-**
 17 **GRAMS.—**

18 “(1) **IN GENERAL.—**The Secretary is authorized
 19 to carry out pilot programs to examine innovative
 20 approaches or alternatives to regulations issued
 21 under this chapter for private motor carriage in
 22 intrastate transportation of an agricultural produc-
 23 tion material from—

24 “(A) a source of supply to a farm;

25 “(B) a farm to another farm;

1 “(C) a field to another field on a farm; or

2 “(D) a farm back to the source of supply.

3 “(2) LIMITATION.—The Secretary may not
4 carry out a pilot program under paragraph (1) if the
5 Secretary determines that the program would pose
6 an undue risk to public health and safety.

7 “(3) SAFETY LEVELS.—In carrying out a pilot
8 project under this subsection, the Secretary shall re-
9 quire, as a condition of approval of the project, that
10 the safety measures in the project are designed to
11 achieve a level of safety that is equivalent to, or
12 greater than, the level of safety that would otherwise
13 be achieved through compliance with the standards
14 prescribed under this chapter.

15 “(4) TERMINATION OF PROJECT.—The Sec-
16 retary shall immediately terminate any project en-
17 tered into under this subsection if the motor carrier
18 or other entity to which it applies fails to comply
19 with the terms and conditions of the pilot project or
20 the Secretary determines that the project has re-
21 sulted in a lower level of safety than was maintained
22 before the project was initiated.

23 “(5) NONAPPLICATION.—This subsection does
24 not apply to the application of regulations issued
25 under this chapter to vessels or aircraft.”.

1 (b) Section 5119(c) is amended by adding at the end
2 the following:

3 “(4) Pending promulgation of regulations under
4 this subsection, States may participate in a program
5 of uniform forms and procedures recommended by
6 the working group under subsection (b).”.

7 (c) The chapter analysis for chapter 51 is amended
8 by striking the item related to section 5117 and inserting
9 the following:

“5117. Special permits, pilot programs, exemptions, and exclusions.”.

10 **SEC. 11. ADMINISTRATION.**

11 (a) Section 5121 is amended by striking subsections
12 (a), (b), and (c) and redesignating subsections (d) and (e)
13 as subsections (a) and (b), respectively.

14 (b) Section 5122 is amended by redesignating sub-
15 sections (a), (b), and (c) as subsections (d), (e), and (f),
16 and by inserting before subsection (d), as redesignated,
17 the following:

18 “(a) GENERAL AUTHORITY.—To carry out this chap-
19 ter, the Secretary of Transportation may investigate,
20 make reports, issue subpoenas, conduct hearings, require
21 the production of records and property, take depositions,
22 and conduct research, development, demonstration, and
23 training activities. After notice and an opportunity for a
24 hearing, the Secretary may issue an order requiring com-

1 pliance with this chapter or a regulation prescribed under
2 this chapter.

3 “(b) RECORDS, REPORTS, AND INFORMATION.—A
4 person subject to this chapter shall—

5 “(1) maintain records, make reports, and pro-
6 vide information the Secretary by regulation or
7 order requires; and

8 “(2) make the records, reports, and information
9 available when the Secretary requests.

10 “(c) INSPECTION.—

11 “(1) The Secretary may authorize an officer,
12 employee, or agent to inspect, at a reasonable time
13 and in a reasonable way, records and property relat-
14 ed to—

15 “(A) manufacturing, fabricating, marking,
16 maintaining, reconditioning, repairing, testing,
17 or distributing a packaging or a container for
18 use by a person in transporting hazardous ma-
19 terials in commerce; or

20 “(B) the transportation of hazardous ma-
21 terials in commerce.

22 “(2) An officer, employee, or agent under this
23 subsection shall display proper credentials when re-
24 quested.”.

1 **SEC. 12. COOPERATIVE AGREEMENTS.**

2 Section 5121, as amended by section 11(a), is further
3 amended by adding at the end thereof the following:

4 “(f) **AUTHORITY FOR COOPERATIVE AGREEMENTS.**—
5 To carry out this chapter, the Secretary may enter into
6 grants, cooperative agreements, and other transactions
7 with a person, agency or instrumentality of the United
8 States, a unit of State or local government, an Indian
9 tribe, a foreign government (in coordination with the State
10 Department), an educational institution, or other entity
11 to further the objectives of this chapter. The objectives
12 of this chapter include the conduct of research, develop-
13 ment, demonstration, risk assessment, emergency re-
14 sponse planning and training activities.”.

15 **SEC. 13. ENFORCEMENT.**

16 Section 5122, as amended by section 11(b), is further
17 amended—

18 (1) in the first sentence of subsection (a), by in-
19 sserting “inspect,” after “may”;

20 (2) by striking the last sentence of subsection
21 (a) and inserting: “Except as provided in subsection
22 (e) of this section, the Secretary shall provide notice
23 and an opportunity for a hearing prior to issuing
24 an order requiring compliance with this chapter or
25 a regulation, order, special permit, or approval
26 issued under this chapter.”; and

1 (3) by redesignating subsections (d), (e) and (f)
2 as subsections (f), (g) and (h), and inserting after
3 subsection (c) the following:

4 “(d) OTHER AUTHORITY.—

5 “(1) INSPECTION.—During inspections and in-
6 vestigations, officers, employees, or agents of the
7 Secretary may—

8 “(A) open and examine the contents of a
9 package offered for, or in, transportation
10 when—

11 “(i) the package is marked, labeled,
12 certified, placarded, or otherwise rep-
13 resented as containing a hazardous mate-
14 rial, or

15 “(ii) there is an objectively reasonable
16 and articulable belief that the package may
17 contain a hazardous material;

18 “(B) take a sample, sufficient for analysis,
19 of material marked or represented as a hazard-
20 ous material or for which there is an objectively
21 reasonable and articulable belief that the mate-
22 rial may be a hazardous material, and analyze
23 that material;

24 “(C) when there is an objectively reason-
25 able and articulable belief that an imminent

1 hazard may exist, prevent the further transpor-
2 tation of the material until the hazardous quali-
3 ties of that material have been determined; and

4 “(D) when safety might otherwise be com-
5 promised, authorize properly qualified personnel
6 to conduct the examination, sampling, or analy-
7 sis of a material.

8 “(2) NOTIFICATION.—No package opened pur-
9 suant to this subsection shall continue its transpor-
10 tation until the officer, employee, or agent of the
11 Secretary—

12 “(A) affixes a label to the package indicat-
13 ing that the package was inspected pursuant to
14 this subsection; and

15 “(B) notifies the shipper that the package
16 was opened for examination.

17 “(e) EMERGENCY ORDERS.—

18 “(1) If, through testing, inspection, investiga-
19 tion, or research carried out under this chapter, the
20 Secretary decides that an unsafe condition or prac-
21 tice, or a combination of them, causes an emergency
22 situation involving a hazard of death, personal in-
23 jury, or significant harm to the environment, the
24 Secretary may immediately issue or impose restric-
25 tions, prohibitions, recalls, or out-of-service orders,

1 without notice or the opportunity for a hearing, that
2 may be necessary to abate the situation.

3 “(2) The Secretary’s action under this sub-
4 section must be in a written order describing the
5 condition or practice, or combination of them, that
6 causes the emergency situation; stating the restric-
7 tions, prohibitions, recalls, or out-of-service orders
8 being issued or imposed; and prescribing standards
9 and procedures for obtaining relief from the order.

10 “(3) After taking action under this subsection,
11 the Secretary shall provide an opportunity for review
12 of that action under section 554 of title 5.

13 “(4) If a petition for review is filed and the re-
14 view is not completed by the end of the 30-day pe-
15 riod beginning on the date the petition was filed, the
16 action will cease to be effective at the end of that
17 period unless the Secretary determines in writing
18 that the emergency situation still exists.”.

19 **SEC. 14. PENALTIES.**

20 (a) IN GENERAL.—Section 5123(a)(1) is amended by
21 striking the first sentence and inserting the following: “A
22 person that knowingly violates this chapter or a regula-
23 tion, order, special permit, or approval issued under this
24 chapter is liable to the United States Government for a

1 civil penalty of at least \$250 but not more than \$27,500
2 for each violation.”.

3 (b) DEGREE OF CULPABILITY.—Section 5123(c)(2)
4 is amended to read as follows:

5 “(2) with respect to the violator, the degree of
6 culpability, any good-faith efforts to comply with the
7 applicable requirements, any history of prior viola-
8 tions, any economic benefit resulting from the viola-
9 tion, the ability to pay, and any effect on the ability
10 to continue to do business; and”.

11 (c) CRIMINAL PENALTY.—Section 5124 is amended
12 to read as follows:

13 **“§ Sec. 5124. Criminal penalty**

14 “(a) IN GENERAL.—A person knowingly violating
15 section 5104(b) of this title or willfully violating this chap-
16 ter or a regulation, order, special permit, or approval
17 issued under this chapter, shall be fined under title 18,
18 imprisoned for not more than 5 years, or both.

19 “(b) AGGRAVATED VIOLATIONS.—A person know-
20 ingly violating section 5104(b) of this title or willfully vio-
21 lating this chapter or a regulation, order, special permit,
22 or approval issued under this chapter, and thereby causing
23 the release of a hazardous materials, shall be fined under
24 title 18, imprisoned for not more than 20 years, or both.”.

1 **SEC. 15. PREEMPTION.**

2 (a) REQUIREMENTS CONTRARY TO PURPOSES OF
3 CHAPTER.—Section 5125(a)(2) is amended by inserting
4 “, the purposes of this chapter,” after “this chapter” the
5 first place it appears.

6 (b) DEADWOOD.—Section 5125(b)(2) is amended by
7 striking “prescribes after November 16, 1990.” and in-
8 serting “prescribes.”.

9 (c) INDEPENDENT APPLICATION OF PREEMPTION
10 STANDARDS.—Section 5125 is amended by adding at the
11 end thereof the following:

12 “(h) INDEPENDENT APPLICATION OF EACH STAND-
13 ARD.—Each preemption standard in subsections (a),
14 (b)(1), (c), and (g) of this section and section 5119(c)(2)
15 is independent in its application to a requirement of any
16 State, political subdivision of a State, or Indian tribe.”.

17 **SEC. 16. JUDICIAL REVIEW.**

18 (a) IN GENERAL.—Chapter 51 is amended by redес-
19 ignating section 5127 as section 5128, and by inserting
20 after section 5126 the following new section:

21 “§ **Sec. 5127. Judicial review**

22 “(a) FILING AND VENUE.—Except as provided in
23 section 20114(c), a person disclosing a substantial interest
24 in a final order issued, under the authority of section 5122
25 or 5123, by the Secretary of Transportation, the Adminis-
26 trators of the Research and Special Programs Administra-

1 tion, the Federal Aviation Administration, or the Federal
2 Highway Administration, or the Commandant of the
3 United States Coast Guard ('modal Administrator'), with
4 respect to the duties and powers designated to be carried
5 out by the Secretary under this chapter, may apply for
6 review in the United States Court of Appeals for the Dis-
7 trict of Columbia or in the court of appeals for the United
8 States for the circuit in which the person resides or has
9 its principal place of business. The petition must be filed
10 not more than 60 days after the order is issued. The court
11 may allow the petition to be filed after the 60th day only
12 if there are reasonable grounds for not filing by the 60th
13 day.

14 “(b) JUDICIAL PROCEDURES.—When a petition is
15 filed under subsection (a) of this section, the clerk of the
16 court immediately shall send a copy of the petition to the
17 Secretary or the modal Administrator, as appropriate. The
18 Secretary or the modal Administrator shall file with the
19 court a record of any proceeding in which the order was
20 issued, as provided in section 2112 of title 28.

21 “(c) AUTHORITY OF COURT.—When the petition is
22 sent to the Secretary or the modal Administrator, the
23 court has exclusive jurisdiction to affirm, amend, modify,
24 or set aside any part of the order and may order the Sec-
25 retary or the modal Administrator to conduct further pro-

1 ceedings. After reasonable notice to the Secretary or the
2 modal Administrator, the court may grant interim relief
3 by staying the order or taking other appropriate action
4 when good cause for its action exists. Findings of fact by
5 the Secretary or the modal Administrator, if supported by
6 substantial evidence, are conclusive.

7 “(d) REQUIREMENT FOR PRIOR OBJECTION.—In re-
8 viewing a final order under this section, the court may
9 consider an objection to a final order of the Secretary or
10 the modal Administrator only if the objection was made
11 in the course of a proceeding or review conducted by the
12 Secretary, the modal Administrator, or an administrative
13 law judge, or if there was a reasonable ground for not
14 making the objection in the proceeding.

15 “(e) SUPREME COURT REVIEW.—A decision by a
16 court under this section may be reviewed only by the Su-
17 preme Court under section 1254 of title 28, United States
18 Code.”.

19 (b) CLERICAL AMENDMENT.—The chapter analysis
20 for chapter 51 is amended by striking the item related
21 to section 5127 and inserting the following:

“5127. Judicial review.

“5128. Authorization of appropriations.”.

1 **SEC. 17. HAZARDOUS MATERIALS TRANSPORTATION REAU-**
2 **THORIZATION.**

3 (a) IN GENERAL.—Chapter 51, as amended by sec-
4 tion 16 of this Act, is amended by redesignating section
5 5128 as section 5129 and by inserting after section 5127
6 the following:

7 **“§ Sec. 5128. High risk hazardous materials and haz-**
8 **ardous waste; motor carrier safety study**

9 “(a) STUDY.—The Secretary of Transportation shall
10 conduct a study—

11 “(1) to determine the safety benefits and ad-
12 ministrative efficiency of implementing a Federal
13 permit program for high risk hazardous materials
14 and hazardous waste carriers;

15 “(2) to identify and evaluate alternative regu-
16 latory methods and procedures that may improve the
17 safety of high risk hazardous materials and hazard-
18 ous waste carriers and shippers, including evaluating
19 whether an annual safety fitness determination that
20 is linked to permit renewals for hazardous materials
21 and hazardous waste carriers is warranted;

22 “(3) to examine the safety benefits of increased
23 monitoring of high risk hazardous materials and
24 hazardous waste carriers, and the costs, benefits,
25 and procedures of existing State permit programs;

1 “(4) to make such recommendations as may be
2 appropriate for the improvement of uniformity
3 among existing State permit programs; and

4 “(5) to assess the potential of advanced tech-
5 nologies for improving the assessment of high risk
6 hazardous materials and hazardous waste carriers’
7 compliance with motor carrier safety regulations.

8 “(b) TIMEFRAME.—The Secretary shall begin the
9 study required by subsection (a) within 6 months after
10 the date of enactment of the Hazardous Materials Trans-
11 portation Reauthorization Act of 1998 and complete it
12 within 30 months after the date of enactment of that Act.

13 “(c) REPORT.—The Secretary shall report the find-
14 ings of the study required by subsection (a), together with
15 such recommendations as may be appropriate, within 36
16 months after the date of enactment of the Hazardous Ma-
17 terials Transportation Reauthorization Act of 1998.”.

18 (b) SECTION 5109 REGULATIONS TO REFLECT
19 STUDY FINDINGS.—Section 5109(h) is amended by strik-
20 ing “not later than November 16, 1991.” and inserting
21 “based upon the findings of the study required by section
22 5128(a).”.

23 (c) CONFORMING AMENDMENT.—The chapter analy-
24 sis for chapter 51, as amended by section 16, is amended

1 by striking the item relating to section 5128 and inserting
 2 the following:

“5128. High risk hazardous materials and hazardous waste; motor carrier safety
 study.

“5129. Authorization of appropriations.”.

3 **SEC. 18. AUTHORIZATION OF APPROPRIATIONS.**

4 Section 5129, as redesignated, is amended—

5 (1) by striking subsection (a) and inserting the
 6 following:

7 “(a) GENERAL.—There are authorized to be appro-
 8 priated to the Secretary of Transportation to carry out
 9 this chapter (except sections 5107(e), 5108(g)(2), 5113,
 10 5115, and 5116) not more than—

11 “(1) \$15,492,000 for fiscal year 1998;

12 “(2) \$16,000,000 for fiscal year 1999;

13 “(3) \$16,500,000 for fiscal year 2000;

14 “(4) \$17,000,000 for fiscal year 2001;

15 “(5) \$17,500,000 for fiscal year 2002; and

16 “(6) \$18,000,000 for fiscal year 2003.”; and

17 (2) by striking subsections (c) and (d) and in-
 18 serting the following:

19 “(c) TRAINING CURRICULUM.—Not more than
 20 \$200,000 is available to the Secretary of Transportation
 21 from the account established under section 5116(i) for
 22 each of the fiscal years ending September 30, 1999–2003,
 23 to carry out section 5115.

24 “(d) PLANNING AND TRAINING.—

1 “(1) Not more than \$2,444,000 is available to
2 the Secretary of Transportation from the account es-
3 tablished under section 5116(i) for the fiscal year
4 ending September 30, 1998, and such sums as may
5 be necessary for fiscal years 1999–2003, to carry
6 out section 5116(a).

7 “(2) Not more than \$3,666,000 is available to
8 the Secretary of Transportation from the account es-
9 tablished under section 5116(i) for the fiscal year
10 ending September 30, 1998, and such sums as may
11 be necessary for fiscal years 1999–2003, to carry
12 out section 5116(b).

13 “(3) Not more than \$600,000 is available to
14 the Secretary of Transportation from the account es-
15 tablished under section 5116(i) for the fiscal year
16 ending September 30, 1998, and such sums as may
17 be necessary for fiscal years 1999–2003, to carry
18 out section 5116(f).”.

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